

STATE OF NEW JERSEY
DEPARTMENT OF LAW & PUBLIC SAFETY
DIVISION OF CONSUMER AFFAIRS
BOARD OF EXAMINERS OF
ELECTRICAL CONTRACTORS

IN THE MATTER OF THE
LICENSE OF

JAMES FALKOWSKI
License #13732

TO PRACTICE ELECTRICAL
CONTRACTING IN THE STATE
OF NEW JERSEY

Administrative Action

FINAL ORDER
OF DISCIPLINE

This matter was opened to the New Jersey State Board of Examiners of Electrical Contractors ("the Board") upon receipt of information which the Board has reviewed and on which the following findings of fact and conclusions of law are made:

FINDINGS OF FACT

1. Respondent is a licensed electrical contractor in the State of New Jersey, and has been a licensee at all times relevant hereto.
2. In the course of the Board's investigation of a consumer complaint about work performed by respondent at 114 Jeanne Drive in Manahawkin, New Jersey in 2002, respondent wrote to the Board, enclosing a copy of the proposal. Respondent indicated in the communication dated September 16, 2005, that he filed no municipal permit for the work performed, because the work did not require a permit.
3. The Board wrote to respondent on October 19, 2005 by certified and regular mail, advising respondent to obtain a permit and schedule an inspection of the work performed. The letter also requested respondent to advise the Board whether the

work had been completed. The letter was sent to respondent's address of record. Certified mail was signed for. No response was received.

4. On December 2, 2005, the Board wrote to respondent again by certified and regular mail, advising him of his duty to cooperate with Board investigations, and noting his failure to respond to the October 19, 2005 Board communication. Certified mail was returned unclaimed. Regular mail was not returned. No response was received.

5. The work performed by respondent in 2002 required a municipal permit and inspection.

CONCLUSIONS OF LAW

1. Respondent's failure to reply to the Board communications constitutes a failure to cooperate with a Board investigation, in violation of N.J.A.C. 13:45C-1.2, -1.3, subjecting respondent to sanctions pursuant to N.J.S.A. 45:1-21(e).

2. Respondent's admitted failure to apply for a permit prior to beginning the work performed in Manahawkin in 2002 and to obtain inspections, constitutes a violation of the Home Improvement Practices Regulations. See N.J.A.C. 13:45A-16.2(a)10.i, ii. This further constitutes a violation of N.J.S.A. 45:5A-17(b) (willfully failing to comply with municipal permitting requirements) and N.J.A.C. 13:31-1.4 (requirement that licensees comply with all Federal, State and municipal laws, ordinances and regulations), subjecting respondent to sanctions pursuant to N.J.S.A. 45:1-21(h).

DISCUSSION

Based on the foregoing findings and conclusions, a Provisional Order of Discipline was entered on March 1, 2006, and a copy was forwarded by certified and

regular mail to respondent at respondent's address of record. The Order provisionally imposed a civil penalty of \$1,500.00 on respondent for his violations of N.J.S.A. 45:1-21(e) and (h), and respondent's license and business permit were provisionally suspended until respondent had replied to the Board's communications of October 19, 2005 and December 2, 2005. In addition, respondent was provisionally ordered to obtain a municipal permit for the work performed at 114 Jeanne Drive, Manahawkin in 2002, and to obtain final inspection approval of that work. The Provisional Order was subject to finalization by the Board at 5:00 p.m. on the 30th business day following entry unless respondent requested a modification or dismissal of the stated Findings of Fact or Conclusions of Law by submitting a written request for modification or dismissal setting forth in writing any and all reasons why said findings and conclusions should be modified or dismissed and submitting any and all documents or other written evidence supporting respondent's request for consideration and reasons therefor.

In reply to the Provisional Order of Discipline, respondent sent a copy of a permit application which he had taken out for the work at 114 Jeanne Drive, and a letter explaining that he had gone to 114 Jeanne Drive on a date in March of 2006 with construction official Alan Wilkins, but that the homeowner did not answer the door. Respondent indicated that a notice was left for the consumer to call Mr. Wilkins's office. In addition, he stated that he had not intentionally neglected to respond to the Board's letters, but had forgotten about the complaints, and moreover, had been hospitalized four times for heart problems, and was on medication. Respondent requested that the Board therefore dismiss this matter, inasmuch as the penalties would cause hardship to his family.

At the Board's April 5, 2006 meeting, the Board determined not to finalize the Provisional Order of Discipline, but to provide respondent with the further opportunity to obtain inspection approval of the work he had performed at 114 Jeanne Drive. A letter to this effect dated April 28, 2006 was sent to respondent by certified and regular mail at his address of record. Certified mail was returned unclaimed. Regular mail was not returned. No response was received. A copy of a letter dated May 19, 2006, requesting that this matter be placed on the agenda of the Board's June 7, 2006 meeting was subsequently forwarded to respondent. Respondent submitted a letter dated May 24, 2006 advising that he had arranged for final inspection and will provide the form when it is completed. Respondent provided a copy of the passing final inspection certificate dated October 5, 2006.

Inasmuch as respondent has forwarded a copy of the final inspection approval of the work performed at 114 Jeanne Drive, and in consideration of respondent's explanation of the mitigating circumstances for his failure to respond to many of the Board's communications, the Board has determined that the civil penalty be reduced to \$750.00 and that the Provisional Order of Discipline is to be finalized with an amendment to the penalty.

ACCORDINGLY, IT IS on this 7th day of March, 2007

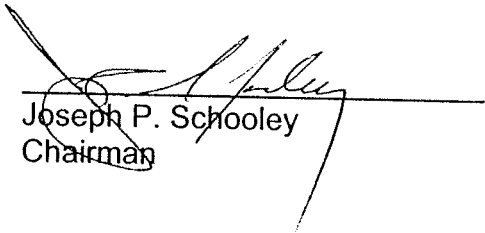
ORDERED that:

1. A civil penalty in the amount of \$750.00 is hereby imposed upon respondent for his violation of N.J.S.A. 45:1-21(e) and (h). Payment is to be in the form of a certified check, money order or attorney trust account check made payable to the State of New Jersey, and forwarded to the attention of Barbara A. Cook, Executive

Director, Board of Examiners of Electrical Contractors, P.O. Box 45006, 124 Halsey Street, Sixth Floor, Newark, NJ 07101. Payment shall be forwarded within twenty one (21) days of the issuance of this Order.

2. Inasmuch a respondent replied to the Board communications of October 19, 2005 and December 2, 2005 following service of the Provisional Order of Discipline dated May 1, 2006, no suspension is to be imposed upon respondent.

STATE BOARD OF EXAMINERS
OF ELECTRICAL CONTRACTORS



Joseph P. Schooley
Chairman